



CHAIRMAN

Federal Communications Commission

Washington, D.C.

April 21, 2004

03-123✓
98-67

DOCKET FILE COPY ORIGINAL

The Honorable Fred Upton
Chairman
Subcommittee on Telecommunications and the Internet
Committee on Energy and Commerce
U.S. House of Representatives
2415 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Upton:

Thank you for your letter of March 31, 2004, concerning the proceeding pending at the Commission regarding the per-minute compensation rate for the provision of Video Relay Service ("VRS"). As you indicate in your correspondence, in a June 27, 2003 *Order* the Commission's Consumer & Governmental Affairs Bureau modified the Telecommunications Relay Service ("TRS") Fund administrator's proposed compensation rate of \$14.023 for VRS for the July 2003 to June 2004 fund year. The Bureau concluded that, on an interim basis, the appropriate per-minute rate should be \$7.751. Please be assured that we understand the importance of these services to persons with hearing and speech disabilities, and in particular the advantages of VRS as a form of TRS.

On July 30, 2003, five VRS providers filed petitions for reconsideration of the June 27th *Order*, challenging the adoption of the \$7.751 per-minute interim VRS compensation rate. In connection with these petitions, various VRS providers submitted supplemental cost data. The Commission is continuing its review of the data, as well as the arguments set forth in the petitions for reconsideration. Thus, it would not be appropriate for me to comment at this time on any potential outcome, including whether the data support either affirming or adjusting the interim rate.

It is certainly the case that markedly more consumers are enjoying this service. This remains true even though VRS is presently not a mandatory service, and generally is available only to individuals with hearing or speech disabilities who have access to broadband services. Even given the interim (reduced) VRS compensation rate, a new VRS provider entered this already competitive market, increasing the number of VRS providers to seven.

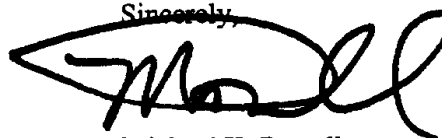
Since release of the June 27th *Order* and the interim compensation rate became effective, we have seen enormous growth in the minutes of use for VRS. In May 2003, there were 189,422 minutes of use of VRS. By January 2004, that number had risen to 477,538. In February 2004, the most recent month for which we have data, the number of VRS minutes rose to 534,536. Since the adoption of the interim VRS compensation rate, the use of VRS has increased over

180%. Indeed, as a result of this significant growth of monthly minutes of use of VRS (as well as of IP Relay) over initial projections, it became necessary earlier this year to increase the carrier contribution rate and the Interstate TRS Fund size for the July 2003 through June 2004 fund year. As a result of this adjustment, the Interstate TRS Fund will increase from approximately \$115 million to \$170 million.

To the extent that there are concerns that the interim VRS compensation rate is somehow inconsistent with the TRS mandate (or unfair to providers), it bears emphasizing that Title IV of the Americans with Disabilities Act, which instituted TRS, requires that TRS providers be allowed to recover their "reasonable" costs of providing the service. For interstate TRS (and, currently, some intrastate TRS, like VRS) the compensation is paid from the Interstate TRS Fund, which is funded by all consumers of interstate telecommunications services through a service charge collected by interstate carriers. The initial compensation rate for VRS was \$5.14 per minute, and the proposed rate of \$14.023 per minute would have more than doubled this amount in a three-year span. By contrast, text-based TRS has been compensated at rates ranging from \$1.16 to \$1.70 per minute. Because TRS is free to consumers, and the providers of TRS recover their costs of providing the service, part of our responsibility in regulating the TRS is ensuring the integrity of the Interstate TRS Fund and, in turn, all consumers that contribute to the Fund. For this reason, the Commission must ensure that the compensation paid from the Fund is just and reasonable.

The Commission will consider carefully the entire record developed in this proceeding as it examines the Bureau's June 27th decision. For your convenience, I am enclosing a copy of the June 27, 2003 Bureau *Order* adopting the interim VRS compensation rate, and the February 23, 2004 Bureau *Order* increasing the contribution factor. I appreciate your taking the time to let me know of your concerns in this matter. Please let me know if you have any further questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Powell", written over a horizontal line.

Michael K. Powell

Enclosures



CHAIRMAN

Federal Communications Commission

Washington, D.C.

April 21, 2004

The Honorable Joe Barton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Barton:

Thank you for your letter of March 31, 2004, concerning the proceeding pending at the Commission regarding the per-minute compensation rate for the provision of Video Relay Service ("VRS"). As you indicate in your correspondence, in a June 27, 2003 *Order* the Commission's Consumer & Governmental Affairs Bureau modified the Telecommunications Relay Service ("TRS") Fund administrator's proposed compensation rate of \$14.023 for VRS for the July 2003 to June 2004 fund year. The Bureau concluded that, on an interim basis, the appropriate per-minute rate should be \$7.751. Please be assured that we understand the importance of these services to persons with hearing and speech disabilities, and in particular the advantages of VRS as a form of TRS.

On July 30, 2003, five VRS providers filed petitions for reconsideration of the June 27th *Order*, challenging the adoption of the \$7.751 per-minute interim VRS compensation rate. In connection with these petitions, various VRS providers submitted supplemental cost data. The Commission is continuing its review of the data, as well as the arguments set forth in the petitions for reconsideration. Thus, it would not be appropriate for me to comment at this time on any potential outcome, including whether the data support either affirming or adjusting the interim rate.

It is certainly the case that markedly more consumers are enjoying this service. This remains true even though VRS is presently not a mandatory service, and generally is available only to individuals with hearing or speech disabilities who have access to broadband services. Even given the interim (reduced) VRS compensation rate, a new VRS provider entered this already competitive market, increasing the number of VRS providers to seven.

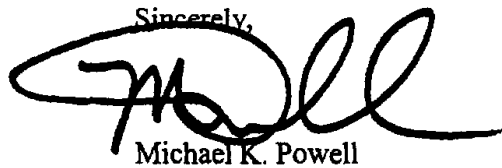
Since release of the June 27th *Order* and the interim compensation rate became effective, we have seen enormous growth in the minutes of use for VRS. In May 2003, there were 189,422 minutes of use of VRS. By January 2004, that number had risen to 477,538. In February 2004, the most recent month for which we have data, the number of VRS minutes rose to 534,536. Since the adoption of the interim VRS compensation rate, the use of VRS has increased over 180%. Indeed, as a result of this significant growth of monthly minutes of use of VRS (as well

as of IP Relay) over initial projections, it became necessary earlier this year to increase the carrier contribution rate and the Interstate TRS Fund size for the July 2003 through June 2004 fund year. As a result of this adjustment, the Interstate TRS Fund will increase from approximately \$115 million to \$170 million.

To the extent that there are concerns that the interim VRS compensation rate is somehow inconsistent with the TRS mandate (or unfair to providers), it bears emphasizing that Title IV of the Americans with Disabilities Act, which instituted TRS, requires that TRS providers be allowed to recover their "reasonable" costs of providing the service. For interstate TRS (and, currently, some intrastate TRS, like VRS) the compensation is paid from the Interstate TRS Fund, which is funded by all consumers of interstate telecommunications services through a service charge collected by interstate carriers. The initial compensation rate for VRS was \$5.14 per minute, and the proposed rate of \$14.023 per minute would have more than doubled this amount in a three-year span. By contrast, text-based TRS has been compensated at rates ranging from \$1.16 to \$1.70 per minute. Because TRS is free to consumers, and the providers of TRS recover their costs of providing the service, part of our responsibility in regulating the TRS is ensuring the integrity of the Interstate TRS Fund and, in turn, all consumers that contribute to the Fund. For this reason, the Commission must ensure that the compensation paid from the Fund is just and reasonable.

The Commission will consider carefully the entire record developed in this proceeding as it examines the Bureau's June 27th decision. For your convenience, I am enclosing a copy of the June 27, 2003 Bureau *Order* adopting the interim VRS compensation rate, and the February 23, 2004 Bureau *Order* increasing the contribution factor. I appreciate your taking the time to let me know of your concerns in this matter. Please let me know if you have any further questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Powell", written over a horizontal line.

Michael K. Powell

Enclosures

W.J. "BILLY" TAUZIN, LOUISIANA
RALPH M. HALL, TEXAS
MICHAEL DEBAKIS, FLORIDA
FRED UPTON, MICHIGAN
CLIFF STEARNS, FLORIDA
PAUL E. GILLMOR, OHIO
JAMES C. GREENWOOD, PENNSYLVANIA
CHRISTOPHER COX, CALIFORNIA
NATHAN DEAL, GEORGIA
RICHARD BURR, NORTH CAROLINA
ED WHITFIELD, KENTUCKY
CHARLIE NORWOOD, GEORGIA
BARBARA CUBIN, WYOMING
JOHN SHIMKUS, ILLINOIS
HEATHER WILSON, NEW MEXICO
JOHN B. SHADEGG, ARIZONA
CHARLES W. "CHIP" PICKERING, MISSISSIPPI
VITO FOSSELLA, NEW YORK
STEVE BUYER, INDIANA
GEORGE RADANOVICH, CALIFORNIA
CHARLES F. BASS, NEW HAMPSHIRE
JOSEPH R. PITTS, PENNSYLVANIA
MARY BONO, CALIFORNIA
GREG WALDEN, OREGON
LEE TERRY, NEBRASKA
MIKE FERGUSON, NEW JERSEY
MIKE ROGERS, MICHIGAN
DARRELL E. ISSA, CALIFORNIA
C.L. "BUTCH" OTTER, IDAHO
JOHN SULLIVAN, OKLAHOMA

BUD ALBRIGHT, STAFF DIRECTOR

ONE HUNDRED EIGHTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

JOE BARTON, TEXAS
CHAIRMAN
March 31, 2004

JOHN D. DINGELL, MICHIGAN
HENRY A. WAXMAN, CALIFORNIA
EDWARD J. MARKEY, MASSACHUSETTS
RICK BOUCHER, VIRGINIA
EDOLPHUS TOWNS, NEW YORK
FRANK PALLONE, JR., NEW JERSEY
SHERRON BROWN, OHIO
BART GORDON, TENNESSEE
PETER DEUTSCH, FLORIDA
BOBBY L. RUSH, ILLINOIS
ANNA G. ESHOO, CALIFORNIA
BART STUPAK, MICHIGAN
ELIOT L. ENGEL, NEW YORK
ALBERT R. WYNN, MARYLAND
GENE GREEN, TEXAS
KAREN MCCARTHY, MISSOURI
TED STRICKLAND, OHIO
DIANA DEGETTE, COLORADO
LOIS CAPPS, CALIFORNIA
MICHAEL F. DOYLE, PENNSYLVANIA
CHRISTOPHER JOHN, LOUISIANA
TOM ALLEN, MAINE
JIM DAVIS, FLORIDA
JAN SCHAKOWSKY, ILLINOIS
HILDA L. SOLIS, CALIFORNIA
CHARLES A. GONZALEZ, TEXAS

CGB
Policy
PV
MKP
1016

Hon. Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Video Relay Service

Dear Chairman Powell:

I write you concerning the proceeding pending at the Federal Communications Commission (the Commission) to set the permanent 2003-04 reimbursement rate for Video Relay Service ("VRS"). As I understand it, VRS is currently operating pursuant to an interim reimbursement rate that the Commission adopted June 27, 2003, and which is significantly less than the rate that was previously in effect.

As you know, VRS allows deaf and hard of hearing persons to use the telecommunications system in their primary visual language, American Sign Language ("ASL"). It thus achieves a greater degree of functional equivalence than standard text relay for ASL users. Both the Americans with Disabilities Act and the Communications Act require telecommunications relay services, including VRS, to provide hearing- and speech-impaired individuals with communications services that are "functionally equivalent" to traditional telephone transmission services.

In its interim rate, the Commission substantially reduced the per-minute compensation rate for VRS from \$17.004 to \$7.751. In setting the interim rate, the Commission expressed serious concerns about the cost data submitted by TRS service providers. The Commission also determined that the agency needed more time to review additional cost data in certain areas.

I understand that the Commission may now be approaching a decision regarding the permanent reimbursement rate for VRS. I would like to know whether the additional data reviewed since the Commission set the interim rate has affirmed the Commission's interim decision to drastically reduce the reimbursement rate. I would also like to know whether the Commission believes that a drastically lower reimbursement rate would not undermine VRS and the goals set

1 APR 2004 RCVD

forth in Section 225 of the Communications Act that were intended to ensure that hearing- and speech-impaired individuals have access to the United States' robust telecommunications services.

Sincerely,



Joe Barton

Chairman, Committee on Energy and Commerce



Fred Upton

Chairman, Subcommittee on
Telecommunications and the Internet

cc: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein